

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. BELLMON. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The bill having been read the third time, the question is, Shall it pass. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee (Mr. SASSER), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

I also announce that the Senator from Tennessee (Mr. BAKER) is absent to attend a funeral.

The PRESIDING OFFICER. Are there other Senators present desiring to vote? Are there others present desiring to vote?

The result was announced—yeas 90, nays 6, as follows:

[Rollcall Vote No. 185 Leg.]

YEAS—90

Armstrong	Hart	Muskie
Baucus	Hatch	Nelson
Bayh	Hatfield	Nunn
Bellmon	Hayakawa	Packwood
Bentsen	Heflin	Pell
Boren	Heinz	Percy
Boschwitz	Hollings	Pressler
Bradley	Huddleston	Pryor
Bumpers	Humphrey	Randolph
Burdick	Inouye	Ribicoff
Byrd, Robert C.	Jackson	Riegle
Cannon	Javits	Sarbanes
Chiles	Jepsen	Schmitt
Church	Johnston	Schweiker
Cochran	Kassebaum	Simpson
Cohen	Kennedy	Stafford
Cranston	Laxalt	Stennis
Culver	Leahy	Stevens
Danforth	Levin	Stewart
DeConcini	Long	Stone
Dole	Lugar	Talmadge
Durenberger	Magnuson	Thurmond
Durkin	Mathias	Tower
Eagleton	Matsunaga	Tsongas
Exon	McClure	Wallop
Ford	McGovern	Warner
Garn	Meicher	Weicker
Glenn	Metzenbaum	Williams
Goldwater	Morgan	Young
Gravel	Moynihan	Zorinsky

NAYS—6

Biden	Chafee	Roth
Byrd,	Helms	
Harry F., Jr.	Proxmire	

NOT VOTING—4

Baker	Sasser	Stevenson
Domenici		

So the bill (H.R. 4388) was passed.
Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I move that the Senate insist on its amendments and request a conference with the House on the disagreeing votes thereon, and that the Chair be author-

ized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Messrs. JOHNSTON, STENNIS, MAGNUSON, ROBERT C. BYRD, HOLLINGS, HUDDLESTON, BURDICK, SASSER, DECONCINI, HATFIELD, YOUNG, SCHWEIKER, BELLMON, MCCLURE, GARN, and SCHMITT conferees on the part of the Senate.

Mr. ROBERT C. BYRD. Mr. President, for the third time today, I compliment Mr. JOHNSTON.

The Energy and Water Development appropriations bill, considered by the Senate today is a complex measure which contains vitally important projects. The distinguished Senator from Louisiana (Mr. JOHNSTON) has managed this bill admirably under trying circumstances. As chairman of the Energy and Water Subcommittee of the Appropriations Committee, he has overseen the formulation of this bill in great detail.

The distinguished Senator from Oregon (Mr. HATFIELD) has contributed in equal measure to the consideration of this bill. His long experience as ranking member of the subcommittee provided additional expertise to the Senate in its deliberations on the Energy and Water Development bill.

Two key areas of national policy are affected by this measure—energy research and development and improvement of our water resources. In many cases, these two issues are inseparable. Hydroelectric projects are the prime examples of that fact. Transportation of energy resources is facilitated by the improvements to navigable waterways included in the bill.

Basic science research carried out by the Department of Energy is funded at a level which will provide the maximum amount of benefit for each dollar. More advanced research into solar power is provided for in order for the United States to have as many energy options available as possible.

In short, the Energy and Water Development appropriations bill coupled with the Interior appropriations bill, which we will consider at a later point, provide a sound structure on which to shape our energy policy and promote the efficient use of our natural resources.

Once again, I commend the subcommittee for its fine work on this difficult matter.

Mr. JOHNSTON. I thank the majority leader.

Mr. President, I thank again the distinguished ranking majority member, Senator HATFIELD, and his excellent staff for the cooperation we have had throughout this bill. It really has been a team effort and a bipartisan effort.

I especially thank Proctor Jones, Dave Gwaltney, and Mrs. Gloria Butland, of the committee staff, who have worked day and night, literally, sometimes through the night, for days on end, to put together a very difficult bill.

I think we have an excellent bill here, one that has been well thought out.

I thank all those responsible for their help in getting the bill passed.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. MAGNUSON. Mr. President, as chairman of the Appropriations Committee, I congratulate the Senator for the fine work that has been done on this bill. I know how difficult it is. It is not necessarily the most complex bill. I will not give way to the HEW bill. It is next to the HEW bill in complexity.

Proctor and the others have done a tremendous amount of work. I do not know how many witnesses the committee heard this year. I recall that I used to hear 600 or 700 witnesses.

Mr. JOHNSTON. More than 2,000 appeared this year. We have large groups and delegations—and about 700 or 800 witnesses presented testimony.

Mr. MAGNUSON. It is a tremendous job, and I congratulate the Senator from Louisiana as well as the Senator from Oregon for the way the bill was handled on the floor.

Mr. JOHNSTON. I thank the distinguished chairman of the full committee, who has been a great help in getting this bill passed. He attended many of our committee meetings and has been a great help.

Also, the distinguished ranking minority member, Senator Young, I believe, attended every meeting of the committee. He is an expert on water resource matters as well as an expert on energy, and he has been a great help with the bill.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. YOUNG. Mr. President, this bill has become much more complicated than it used to be. I would not want to be the ranking minority member on the subcommittee now.

The energy part of it is so vast and complicated now that I do not know how the committee can even deal with it. The excellent staff is most helpful.

I commend both the Senator from Louisiana (Mr. JOHNSTON) and the Senator from Oregon (Mr. HATFIELD) for the fine job they have done and for the patience and understanding they have exhibited. I also commend the able staff members on both sides, especially Proctor Jones, who I consider one of the most able staff members in the Senate.

Mr. JOHNSTON. I thank the Senator, and I share the Senator's opinion of Proctor Jones.

EXPORT ADMINISTRATION ACT OF 1979

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S. 737, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 737) to provide authority to regulate exports, to improve the efficiency of export regulation, and to minimize interference with the right to engage in commerce.

The Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and

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ard B. Russell Dam and the construction of a fifth power generation unit at Lake Hartwell, and the navigation projects in various rivers and harbors will be extremely beneficial to the continued economic growth of South Carolina and Georgia.

Mr. President, in addition to containing funding for a number of projects of special interest to the citizens of South Carolina, H.R. 4388 contains funds for a number of important programs in the Departments of Energy and Interior, as well as various independent agencies, including the Appalachian Regional Commission, Tennessee Valley Authority, Nuclear Regulatory Commission and others. The total amount appropriated is within the budget estimates, and, accordingly, I urge that the bill be passed.

Mr. CRANSTON. Mr. President, I would like to ask the floor manager of the bill a question relating to the Bureau of Reclamation's feasibility study of the Mid-Valley Canal in California. As the floor manager knows, the President's fiscal year 1980 budget does not include any moneys for the Mid-Valley Canal. The Bureau of Reclamation recently suspended the study and is preparing a concluding report on the proposed Mid-Valley Canal because there is not presently an adequate supply of water for the project. The State of California and the farmers on the east side of the San Joaquin Valley want the Bureau of Reclamation to complete the feasibility study nevertheless. The Bureau has already invested \$546,000 and 8 years in the study. I think that it makes little sense not to complete the study as additional water supplies may well be available in the future. Shasta Dam, for example, may be enlarged, thus providing the necessary water supply.

I understand that an appropriation of \$150,000 in fiscal year 1980 would permit the Bureau of Reclamation to complete the Mid-Valley feasibility study. I have talked to the floor manager of the bill, and appreciate his concern about accepting any increases in this bill, regardless of the merit of the request. However, I understood the Senator from Louisiana to say that he would include funds for the Mid-Valley Canal study in the supplemental appropriations bill, or if there is no fiscal year 1980 supplemental, in the regular bill next year. Is that correct?

Mr. JOHNSTON. That is correct, based on the information that there are potential additional water supplies. In that case, we will fund the Mid-Valley Canal feasibility study in the next annual appropriations bill, either the fiscal year 1980 supplemental or the fiscal year 1981 bill, or possibly even a transfer of funds, or reprogramming request.

Mr. CRANSTON. That being the case, would the Senator agree with me that the Bureau of Reclamation should resume the Mid-Valley study and not prepare the concluding report?

Mr. JOHNSTON. Yes, I agree with the Senator from California that the Bureau of Reclamation should keep the study open as we intend to follow up on this to see that the funds necessary to complete the Mid-Valley Canal feasibility study are made available.

Mr. MUSKIE. Mr. President, the Senate has before it H.R. 4388, the Energy and Water Development appropriation bill for fiscal year 1980.

The bill as reported provides \$10.8 billion in new budget authority. Outlays associated with the bill total \$5.9 billion.

Under section 302(b) of the Budget Act, the Appropriations Committee divides among its subcommittees the total budget authority and outlays allocated to the committee under the first budget resolution. The Appropriations Committee has allocated \$11.1 billion in budget authority and \$9.7 billion in outlays to the Energy and Water Development Subcommittee.

The funds provided by H.R. 4388 as reported, together with action completed or under way, plus possible later requirements known at this time put the subcommittee \$0.4 billion above its budget authority allocation and \$0.7 billion above its outlays allocation. This would not be consistent with the targets in the first budget resolution.

Mr. President, I ask unanimous consent that a table showing the relationship of this bill and possible later requirements to the subcommittee allocation be printed in the Record at this point.

H.R. 4388, Energy and water development appropriation bill, relationship to subcommittee's section 302(b) allocation
[in billions]

	Budget authority	Outlays
Subcommittee's section 302(b) allocation.....	11.1	9.7
Action completed or underway	—	4.1
H.R. 4388, as reported.....	10.8	5.9
Amount over (+) or under (-) subcommittee allocation	-0.3	+0.2
Possible later requirements:		
Energy supply.....	+0.5	+0.3
Water resources.....	+0.1	+0.1
October 1979 pay raises.....	+0.1	+0.1
Possible amount over (+) or under (-) subcommittee allocation.....	+0.4	+0.7

Even though this bill, together with possible later requirements will exceed the subcommittee's allocation, I support it. I realize, as I am sure my colleagues do, that events since the first budget resolution have developed a consensus in the Congress and in the country on broader based energy programs.

But, Mr. President, the Senate should be aware that there are serious pressures on the Appropriations Committee regarding the fiscal year 1980 budget. Unfortunately, there do not appear to be any compensating surpluses available in any other subcommittee allocations to make up for the overages in this bill. In fact, several other subcommittees may exceed their allocation when foreseeable supplemental requirements are taken into account.

It now appears that the Appropriations Committee may actually exceed the amount allocated to it in the budget

resolution by up to \$5.6 billion in budget authority and \$4.7 billion in outlays when all the regular 1980 appropriation bills and all the 1980 supplemental requirements are taken into account.

We now face the prospect that these appropriations excesses may increase the 1980 deficit by as much as \$5 to \$6 billion. In fact, the combinations of these additional appropriations and the apparent economic slowdown threaten to drive the 1980 deficit higher than 1979. It now appears that the deficit for 1979 will be about \$30 billion. Instead of the \$23 billion figure we contemplated for the first resolution, it appears that the deficit for 1980 will rise by \$6 billion. Taking into account the appropriation bill increases over the budget resolution, the deficit may rise to \$34 or \$35 billion, reversing the trend of the last 5 years and increasing the deficit to unacceptable levels.

Today, Mr. President, Senator BELLMON, the ranking Republican member of the Budget Committee, and I have written to the distinguished chairman of the Senate Appropriations Committee and his ranking member to discuss the total appropriations situation. In our letter we described the circumstances creating the pressures for these increases.

First, some other committee have failed to make about \$1 billion in legislative savings contemplated in the budget resolution in appropriated programs.

Second, costs for some programs sanctioned by the resolution have risen unforeseeably.

Third, the President's new energy initiatives exceed those contemplated in the budget resolution by up to \$2.9 billion in budget authority and \$1.2 billion in outlays.

Fourth, for reasons apart from these first three causes, the Appropriations Committee itself has spent as much as \$1.5 billion in budget authority and \$1.2 billion in outlays above the budget resolution allocation to it.

In light of these increases, Mr. President, I hope that the Appropriations Committee will reduce other appropriations for fiscal year 1980 to make room for the supplemental needs now anticipated in the energy and Labor-HEW areas.

In the event that such reductions are not made, there will be no alternative but to support amendments to reduce appropriations which are not of compelling necessity at this time.

Finally, in the event floor amendments prove inadequate to reduce these increases for the first time a reconciliation instruction to the Appropriations Committee may be required in the second budget resolution.

Mr. President, support of the higher funding levels for the energy programs in this bill because of changed national priorities must not preclude close scrutiny of all future appropriations bills.

We will work with the Appropriations Committee and do everything possible to assure that the deficit for fiscal year 1980 remains below the fiscal year 1979 deficit.

Mr. JOHNSTON. Mr. President, I ask for the yeas and nays on passage.

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Urban Affairs with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Export Administration Act of 1979".

FINDINGS

Sec. 2. The Congress makes the following findings:

(1) The ability of United States citizens to engage in international commerce is a fundamental concern of United States policy.

(2) Exports contribute significantly to the balance of trade, employment, and production of the United States.

(3) The availability of certain materials at home and abroad varies so that the quantity and composition of United States exports and their distribution among importing countries may affect the welfare of the domestic economy and may have an important bearing upon fulfillment of the foreign policy of the United States.

(4) Exports of goods or technology without regard to whether they make a significant contribution to the military potential of individual countries or combinations of countries may adversely affect the national security of the United States.

(5) The restriction of exports from the United States can have serious adverse effects on the balance of payments and on domestic employment, particularly when restrictions applied by the United States are more extensive than those imposed by other countries.

(6) Uncertainty of export control policy can curtail the efforts of American business to the detriment of the overall attempt to improve the trade balance of the United States and to decrease domestic unemployment.

(7) Unreasonable restrictions on access to world supplies can cause worldwide political and economic instability, interfere with free international trade, and retard the growth and development of nations.

(8) It is important that the administration of export controls imposed for national security purposes give special emphasis to the need to control exports of technology (and goods which contribute significantly to the transfer of such technology) which could make a significant contribution to the military potential of any country or combination of countries which would be detrimental to the national security of the United States.

DECLARATION OF POLICY

Sec. 3. The Congress makes the following declarations:

(1) It is the policy of the United States to minimize uncertainties in export control policy and to encourage trade with all countries with which we have diplomatic or trading relations, except those countries with which such trade has been determined by the President to be against the national interest.

(2) It is the policy of the United States to restrict the ability to export only after full consideration of the impact on the economy of the United States and only to the extent necessary—

(A) to prevent the export of goods and technology which would make a significant contribution to the military potential of any other nation or nations which would prove detrimental to the national security of the United States;

(B) to further significantly the foreign policy of the United States or to fulfill its declared international obligations; and

(C) to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of foreign demand.

(3) It is the policy of the United States (A) to apply any necessary controls to the

maximum extent possible in cooperation with all nations, and (B) to encourage observance of a uniform export control policy by all nations with which the United States has defense treaty commitments.

(4) It is the policy of the United States to use its economic resources and trade potential to further the sound growth and stability of its economy as well as to further its national security and foreign policy objectives.

(5) It is the policy of the United States—

(A) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any United States person;

(B) to encourage and, in specified cases, require United States persons engaged in the export of goods and technology or other information to refuse to take actions, including furnishing information or entering into or implementing agreements, which have the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against a country friendly to the United States or against any United States person; and

(C) to foster international cooperation and the development of international rules and institutions to assure reasonable access to world supplies.

(6) It is the policy of the United States that the desirability of subjecting, or continuing to subject, particular goods or technology or other information to United States export controls should be subjected to review by and consultation with representatives of appropriate United States Government agencies and private industry.

(7) It is the policy of the United States to use export controls, including license fees, to secure the removal by foreign countries of restrictions on access to supplies where such restrictions have or may have a serious domestic inflationary impact, have caused or may cause a serious domestic shortage, or have been imposed for purposes of influencing the foreign policy of the United States. In effecting this policy, the President shall make every reasonable effort to secure the removal or reduction of such restrictions, policies, or actions through international cooperation and agreement before resorting to the imposition of controls on exports from the United States. No action taken in fulfillment of the policy set forth in this paragraph shall apply to the export of medicine or medical supplies.

(8) It is the policy of the United States to use export controls to encourage other countries to take immediate steps to prevent the use of their territories or resources to aid, encourage, or give sanctuary to those persons involved in directing, supporting, or participating in acts of international terrorism. To achieve this objective, the President shall make every reasonable effort to secure the removal or reduction of such assistance to international terrorists through international cooperation and agreement before resorting to the imposition of export controls.

(9) It is the policy of the United States to cooperate with other nations with which the United States has defense treaty commitments in restricting the export of goods and technology which would make a significant contribution to the military potential of any country or combination of countries which would prove detrimental to the security of the United States or to the security of those countries with which the United States has defense treaty commitments.

AUTHORITY

Sec. 4. (a) (1) To the extent necessary to carry out the policies set forth in section 3 of this Act, the President, by rule or regulation, may prohibit or curtail the export of any goods or technology, or for the purpose

of section 5 information, subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. To the extent necessary to achieve effective enforcement of this Act, these rules and regulations may apply to the financing, transporting, and other servicing of exports and the participation therein by any person. In curtailing exports to carry out the policy set forth in section 3(2) (C) of this Act, the President is authorized and directed to allocate a portion of export licenses on the basis of factors other than a prior history of exportation.

(2) (A) In administering export controls for national security purposes as prescribed in section 3(2) (A) of this Act, United States policy toward individual countries shall not be determined exclusively on the basis of a country's Communist or non-Communist status but shall take into account such factors as the country's present and potential relationship to the United States, its present and potential relationship to the United States, its ability and willingness to control retransfers of United States exports in accordance with United States policy, and such other factors as the President may deem appropriate. The President shall review not less frequently than every three years in the case of controls maintained cooperatively with other nations, and annually in the case of all other controls, United States policy toward individual countries to determine whether such policy is appropriate in light of the factors specified in the preceding sentence.

(B) Rules and regulations under this subsection to carry out the policy set forth in section 3(2) (A) of this Act may provide for denial of any request or application for authority to export goods or technology from the United States, its territories and possessions, which would make a significant contribution to the military potential of any nation or combination of nations threatening the national security of the United States if the President determines that their export could prove detrimental to the national security of the United States. In administering export controls for national security purposes as prescribed in section 3(2) (A) of this Act, priority shall be given to preventing the effective transfer to countries to which exports are controlled for national security purposes of goods and technology critical to the design, development, production, or use of military systems which would make a significant contribution to the military potential of any nation or nations which could prove detrimental to the national security of the United States. The Secretary of Commerce, in consultation with the Secretary of Defense, shall review and revise not less frequently than every three years in the case of controls maintained cooperatively with other nations, and annually in the case of all other controls, export controls maintained for national security purposes pursuant to this Act for the purpose of insuring that such controls are limited, to the maximum extent possible consistent with the purposes of this Act, to such militarily critical goods and technologies and the mechanisms through which they may be effectively transferred.

(C) Export controls maintained for foreign policy purposes shall expire on December 31, 1979, or one year after imposition, whichever is later, unless extended by the President in accordance with this subparagraph and subparagraph (D). Any such extension and any subsequent extension shall not be for a period of more than one year. When imposing, increasing, or extending export controls for foreign policy purposes pursuant to the authority provided by this Act, the President shall consider—

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(1) alternative means to further the foreign policy purposes in question;

(ii) the likelihood that foreign competitors will join the United States in effectively controlling such exports;

(iii) the probability that such controls will achieve the intended foreign policy purpose;

(iv) the effect of such controls on United States exports, employment, and production, and on the international reputation of the United States as a supplier of goods and technology;

(v) the reaction of other countries to the imposition or enlargement of such export controls by the United States; and

(vi) the foreign policy consequences of not imposing controls.

(D) Whenever the President imposes, increases, or extends export controls for foreign policy purposes pursuant to authority provided by this Act, he shall inform the Congress of his action within thirty days and, to the extent consistent with the national interest, make public a report specifying his conclusions with respect to each of the matters considered as provided in subparagraph (C) of this paragraph and indicating how such export controls will further significantly the foreign policy of the United States or fulfill its declared international obligations.

(E) The President shall not impose export controls for foreign policy or national security purposes on the export from the United States of goods or technology which he determines are available without restriction from sources outside the United States in significant quantities and comparable in quality to those produced in the United States, unless the President determines that adequate evidence has been presented to him demonstrating that the absence of such controls would prove detrimental to the foreign policy or national security of the United States. Where, in accordance with this paragraph, export controls are imposed for foreign policy or national security purposes notwithstanding foreign availability, the President shall take steps to initiate negotiations with the governments of the appropriate foreign countries for the purpose of eliminating such availability.

(b) (1) Except as otherwise provided in this Act, the Secretary of Commerce shall reorganize the Department of Commerce as necessary to effectuate the policies set forth in this Act. The Secretary of Commerce shall prepare and maintain a list of goods and technology the export of which from the United States, its territories and possessions, is prohibited or regulated pursuant to this Act. The Secretary shall review such list not less frequently than every three years in the case of controls maintained cooperatively with other nations, and annually in the case of all other controls, in order to make promptly such changes and revisions as may be necessary or desirable in furtherance of the policies set forth in this Act. The Secretary shall include in each review an assessment of the availability from sources outside the United States, its territories and possessions, of goods and technology in significant quantities and comparable in quality to those items included on such list. In order to further effectuate the policies set forth in this Act, the Secretary shall establish within the Office of Export Administration a capability for monitoring and gathering information on the foreign availability of goods and technology subject to export control.

(2) The Secretary of Commerce shall keep the public fully apprised of changes in export control policy and procedures instituted in conformity with this Act with a view to encouraging trade. The Secretary shall meet regularly with representatives of the business sector in order to obtain their views on ex-

port control policy and the foreign availability of goods and technology.

(c) (1) (A) To effectuate the policies set forth in this Act, the Secretary of Commerce shall establish at least the following three types of licenses in addition to such other types as the Secretary may deem appropriate:

(i) A validated license.

(ii) A qualified general license.

(iii) A general license.

(B) As used in this subsection—

(i) a "validated license" is a license authorizing the export of goods or technology pursuant to an application by an exporter in accordance with rules and regulations issued pursuant to this Act. A validated license may be required for the export of goods and technology subject to multilateral controls in which the United States participates or as determined pursuant to paragraph (2) of this subsection; and

(ii) a "qualified general license" is a license authorizing the export to any destination of goods or technology, or a class of goods or technology, subject to the conditions contained in rules and regulations issued pursuant to this Act, including conditions pertaining to approval of the particular consignee and end-use of the goods or technology. The goods and technology subject to control by qualified general license shall be determined pursuant to paragraph (2) of this subsection; and

(iii) a "general license" is a license authorizing the export of a class of goods or technology without specific approval if the export is effected in accordance with the conditions contained in rules and regulations issued pursuant to this Act.

(2) To effectuate the policies set forth in section 3 of this Act, it is the intent of Congress that the use of validated licenses be limited to the greatest extent possible to the control of the export of goods and technology which are subject to multilateral controls in which the United States participates. To the extent that the President determines that the policies set forth in section 3 of this Act require the control of the export of other goods and technology, or more stringent controls than the multilateral controls, he will report to the Congress not later than six months after the date of enactment of this Act, and thereafter in each annual report, the reasons for the need to impose, or to continue to impose, such controls. It is further the intent of Congress that export controls which exceed the multilateral controls shall be effected to the greatest extent possible consistent with the purposes of this Act by means of qualified general licenses.

(3) Not later than sixty days after the date of enactment of this Act, the Secretary of Commerce shall establish procedures for the approval of goods and technology that may be exported pursuant to a qualified general license.

(d) (1) (A) All export license applications required under this Act shall be submitted by the applicant to the Secretary. All determinations with respect to any such application shall be made by the Secretary, subject to the procedures provided in this subsection.

(B) It is the intent of Congress that a determination with respect to any export license application be made to the maximum extent possible by the Secretary without referral of such application to any other Government agency.

(C) To the extent necessary, the Secretary shall seek information and recommendations from the several executive departments and independent agencies concerned with aspects of our domestic and foreign policies and operations having an important bearing on exports. These departments and agencies shall cooperate fully in rendering such information and recommendations.

(2) Within ten days after the date on

which any export license application is received, the Secretary shall—

(A) send the applicant an acknowledgment of the receipt of the application and the date of the receipt;

(B) submit to the applicant a written description of the procedures required by this subsection, the responsibilities of the Secretary and of other agencies with respect to the application, and the rights of the applicant;

(C) return the application without action if the application is improperly completed or if additional information is required, with sufficient information to permit the application to be properly resubmitted, in which case if such application is resubmitted, it shall be treated as a new application for the purpose of calculating the time periods prescribed in this subsection;

(D) determine whether it is necessary to submit the application to any other agency and, if such submission is determined to be necessary, inform the applicant of the agency or agencies to which the application will be referred; and

(E) determine whether it is necessary to submit the application to a multilateral review process, pursuant to a multilateral agreement, formal or informal, to which the United States is a party and, if so, inform the applicant of this requirement.

(3) In each case in which the Secretary determines that it is not necessary to submit an application to any other agency for its information and recommendations, a license shall be formally issued or denied within ninety days of the receipt of a properly completed application, unless additional time is required and the applicant specifically requests an extension.

(4) In each case in which the Secretary determines that it is necessary to submit an application to any other agency for its information and recommendations, the Secretary shall, within thirty days of the receipt of a properly completed application—

(A) submit the application together with all necessary analysis and recommendations of the Department of Commerce concurrently to other appropriate agencies; and

(B) if the applicant so requests, provide the applicant with an opportunity to review for accuracy any documentation to be submitted to such other agencies with respect to such application for the purpose of describing the export in question in order to determine whether such documentation accurately describes the proposed export.

(5) (A) Any agency to which an application is submitted pursuant to paragraph (4) shall submit to the Secretary, within thirty days after its receipt of the application, the information or recommendations requested with respect to such application. Except as provided in subparagraph (B), any such agency which does not submit its recommendations within the time period prescribed in the preceding sentence shall be deemed by the Secretary to have no objection to the approval of such application.

(B) If the head or acting head of any such agency notifies the Secretary before the expiration of the time period provided in subparagraph (A) for submission of its recommendations that more time is required for review by such agency, such agency shall have an additional thirty-day period to submit its recommendations to the Secretary. If such agency does not so submit its recommendations within the time period prescribed by the preceding sentence, it shall be deemed by the Secretary to have no objection to the approval of such application.

(6) (A) Within ninety days after receipt of other agency recommendations, as provided for in paragraph (5), the Secretary shall formally issue or deny a license, unless additional time is required and the applicant

specifically requests an extension. In deciding whether to issue or deny a license, the Secretary shall take into account any recommendation of an agency advising on the application in question. In cases where the Secretary receives conflicting recommendations, the Secretary shall, within the ninety days provided for in this subsection, take such action as may be necessary to resolve such conflicting recommendations.

(B) In cases where the Secretary receives questions or negative considerations or recommendations from other agencies advising on an application, the Secretary shall, to the maximum extent consistent with the national security or foreign policy of the United States, inform the applicant of the specific questions raised and any negative considerations or recommendations made by an agency, and shall accord the applicant an opportunity, before the final determination with respect to the application is made, to respond in writing to such questions, considerations, or recommendations.

(C) In cases where the Secretary has determined that an application should be denied, at the time of the formal denial, the applicant shall be informed, to the maximum extent consistent with the national security or foreign policy of the United States, of the specific reasons for such denial.

(7) (A) Notwithstanding any other provision of this subsection, the Secretary of Defense is authorized to review any proposed export of any goods or technology to any country to which exports are controlled for national security purposes and, whenever he determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of any such country, to recommend to the President that such export be disapproved.

(B) Notwithstanding any other provision of law, the Secretary of Defense shall determine, in consultation with the Secretary, and confirm in writing the types and categories of transactions which should be revealed by him in order to make a determination referred to in subparagraph (A). Whenever a license or other authority is requested for the export to any country to which exports are controlled for national security purposes of goods or technology within any such type or category, the Secretary shall notify the Secretary of Defense of such request, and the Secretary may not issue any license or other authority pursuant to such request before the expiration of the period within which the President may disapprove such export. The Secretary of Defense shall carefully consider all notifications submitted to him pursuant to this subparagraph and, not later than thirty days after notification of the request, shall—

(i) recommend to the President that he disapprove any request for the export of any goods or technology to any such country if he determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of such country or any other country;

(ii) notify the Secretary that he would recommend approval subject to specified conditions; or

(iii) recommend to the Secretary that the export of goods or technology be approved.

If the President notifies the Secretary, within thirty days after receiving a recommendation from the Secretary of Defense, that he disapproves such export, no license or other authority may be issued for the export of such goods or technology to such country.

(C) The Secretary shall approve or disapprove a license application, and issue or deny a license, in accordance with the provisions of this paragraph, and, to the extent applica-

ble in accordance with the time periods and procedures otherwise set forth in this subsection.

(8) In any case in which an application, which has been finally approved under paragraph (4), (7), or (8) of this subsection, is required to be submitted to a multilateral review process, pursuant to a multilateral agreement, formal or informal, to which the United States is a party, the license shall not be issued as prescribed in such paragraphs, but the Secretary shall notify the applicant of the approval (and the date of such approval) of the application by the Secretary subject to such multilateral review. The license shall be issued upon approval of the application under such multilateral review.

(9) The Secretary and any agency to which any application is referred under this subsection shall keep accurate records with respect to all applications considered by the Secretary or by any such agency.

(e) (1) To effectuate the policy set forth in section 3(2)(C) of this Act, the Secretary of Commerce shall monitor exports, and contracts for exports, of any goods (other than a commodity which is subject to the reporting requirements of section 812 of the Agricultural Act of 1970) when the volume of such exports in relation to domestic supply contributes, or may contribute, to an increase in domestic prices or a domestic shortage, and such price increase or shortage has, or may have, a serious adverse impact on the economy, any sector thereof, or any industry or substantial segment thereof. Such monitoring shall commence at a time adequate to insure that data will be available which is sufficient to permit achievement of the policies of this Act, and shall include the gathering of data concerning the volume of exports indicated under all contracts providing for the export of such goods following the date of the filing of the petition under section 7(a)(1). Information which the Secretary requires to be furnished in effecting such monitoring shall be confidential, except as provided in paragraph (2) of this subsection and in the last two sentences of section 10(c) of this Act.

(2) The results of such monitoring shall, to the extent practicable, be aggregated and included in weekly reports setting forth, with respect to each item monitored, actual and anticipated exports, the destination by country, and the domestic and worldwide price, supply, and demand. Such reports may be made monthly if the Secretary determines that there is insufficient information to justify weekly reports.

(f) In imposing export controls to effectuate the policy stated in section 3(2)(C) of this Act, the President's authority shall include but not be limited to, the imposition of export license fees.

(g) (1) Notwithstanding any other provision of this Act and notwithstanding subsection (u) of section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), no domestically produced crude oil transported by pipeline over right-of-way granted pursuant to the requirements of section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653) (except any such crude oil which (A) is exported, for the purpose of effectuating an exchange in which the crude oil is exported to an adjacent foreign state to be refined and consumed therein, in exchange for the same quantity of crude oil being exported from that state to the United States; such exchange must result through convenience or increased efficiency of transportation in lower prices for consumers of petroleum products in the United States as described in paragraph (2) (A) (ii) of this subsection, or (B) is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and re-

enters the United States) may be exported from the United States, its territories and possessions, unless the requirements of paragraph (2) of this subsection are met.

(2) Crude oil subject to the prohibition contained in paragraph (1) may be exported only if—

(A) the President makes and publishes an express finding that exports of such crude oil, including exchanges—

(i) will not diminish the total quantity or quality of petroleum refined within, stored within, or legally committed to be transported to and sold within the United States;

(ii) will, within three months following the initiation of such exports or exchanges, result in (a) acquisition costs to the refiners being lower than the acquisition costs such refiners would have to pay for the domestically produced crude oil in the absence of such an export of exchange and (b) that not less than 75 per centum of the savings shall be reflected in reduced wholesale and retail prices of products refined from such imported crude oil;

(iii) will be made only pursuant to contract which may be terminated if the crude oil, supplies of the United States are interrupted, threatened, or diminished;

(iv) are clearly necessary to protect the national interest; and

(v) are in accordance with the provisions of this Act; and

(B) the President reports such finding to the Congress and the Congress within sixty days thereafter passes a concurrent resolution of approval.

(3) Notwithstanding the foregoing provisions of this subsection or any other provision of law including subsection (u) of section 28 of the Mineral Leasing Act of 1920, the President may export oil otherwise subject to this subsection to any foreign nation with whom the United States has entered into a bilateral international oil supply agreement prior to June 25, 1979, or to any foreign nation with whom the United States has entered into a multilateral supply arrangement pursuant to section 251(d) of the Energy Policy and Conservation Act, provided, that the President promptly notifies Congress of each such agreement.

(h) Petroleum products refined in United States Foreign Trade Zones, or in the United States Territory of Guam, from foreign crude oil shall be excluded from any quantitative restrictions imposed pursuant to section 3(2)(C) of this Act, except that, if the Secretary of Commerce finds that a product is in short supply, the Secretary of Commerce may issue such rules and regulations as may be necessary to limit exports.

(i) (1) The authority conferred by this section shall not be exercised with respect to any agricultural commodity, including fats and oils or animal hides or skins, without the approval of the Secretary of Agriculture. The Secretary of Agriculture shall not approve the exercise of such authority with respect to any such commodity during any period for which the supply of such commodity is determined by him to be in excess of the requirements of the domestic economy, except to the extent the President determines that such exercise of authority is required to effectuate the policies set forth in sections 3(2) (A) or (B) of this Act. The Secretary of Agriculture shall not approve the exercise of such authority with respect to any such commodity unless he has (i) given full consideration to the alternative of using the Commodity Credit Corporation to purchase such commodity and arrange sales to foreign governments in accordance with the provisions of the Commodity Credit Corporation Charter Act so as to stabilize markets and maximize returns to agricultural producers, and (ii) determined that export controls are preferable to such use of the au-

thority granted by the Commodity Credit Corporation Charter Act.

(2) Upon approval of the Secretary of Commerce, in consultation with the Secretary of Agriculture, agricultural commodities purchased by or for use in a foreign country may remain in the United States for export at a later date free from any quantitative limitations on export which may be imposed pursuant to section 3(2)(C) of this Act subsequent to such approval. The Secretary of Commerce may not grant approval hereunder unless he receives adequate assurance and, in conjunction with the Secretary of Agriculture, finds (A) that such commodities will eventually be exported, (B) that neither the sale nor export thereof will result in an excessive drain of scarce materials and have a serious domestic inflationary impact, (C) that storage of such commodities in the United States will not unduly limit the space available for storage of domestically owned commodities, and (D) that the purpose of such storage is to establish a reserve of such commodities for later use, not including resale to or use by another country. The Secretary of Commerce is authorized to issue such rules and regulations as may be necessary to implement this paragraph.

(j) Nothing in this Act or the rules or regulations thereunder shall be construed to require authority or permission to export, except where required by the President to effect the policies set forth in section 3 of this Act.

(k) The President may delegate the power, authority, and discretion conferred upon him by this Act to such departments, agencies, or officials of the Government as he may deem appropriate, except that no authority under this Act may be delegated to, or exercised by, any official of any department or agency the head of which is not appointed by and with the advice and consent of the Senate.

(l) (1) Any United States firm, enterprise, or other nongovernmental entity which, for commercial purposes, enters into an agreement with an agency of a government in another country to which exports are restricted for national security purposes, which agreement cites an intergovernmental agreement calling for the encouragement of technical cooperation and is intended to result in the export from the United States to the other party of unpublished technical data of United States origin, shall report such agreement to the Secretary of Commerce.

(2) The provisions of this subsection shall not apply to colleges, universities, or other educational institutions.

(3) The Secretary of Commerce is authorized to issue such rules and regulations as are necessary to implement the provisions of this subsection.

(m) The Secretary of State, in consultation with the Secretary of Defense, the Secretary of Commerce, and the heads of other appropriate departments and agencies, shall be responsible for negotiations with other countries regarding their cooperation in restricting the export of goods and technologies whose export should be restricted pursuant to section 3(9) of this Act, as authorized under section 4(a)(1) of this Act, including negotiations on the basis of approved administration positions as to which goods and technologies should be subject to multilaterally agreed export restrictions and what conditions should apply for exceptions from those restrictions.

(n) The President shall enter into negotiations with the governments participating in the group known as the Coordinating Committee (hereinafter in this subsection referred to as the "Committee") with a view toward reaching—

(A) an agreement to publish the list of items controlled for export by agreement of the Committee, together with all notes, un-

derstandings, and other aspects of such list, and all changes thereto;

(B) an agreement to hold periodic meetings of such governments with high-level representation from such governments, for the purpose of providing guidance on export control policy issues to the Committee;

(C) an agreement to modify the scope of the export controls imposed by agreement of the Committee to a level accepted and enforced by all governments participating in the Committee; and

(D) an agreement on more effective procedures for enforcing the export controls agreed to pursuant to subparagraph (C).

(o) In order to ensure that requirements for validated licenses and qualified general licenses are periodically removed as goods or technology subject to such requirements become obsolete with respect to the national security of the United States, regulations issued by the Secretary may, where appropriate, provide for annual increases in the performance levels of goods or technology subject to any such licensing requirement. Any such goods or technology which no longer meet the performance levels established by the latest such increase shall be removed from the list established pursuant to subsection (b)(1) of this section unless, under such exceptions and under such procedures as the Secretary shall prescribe, any other Government agency objects to such removal and the Secretary determines, on the basis of such objection, that the goods or technology shall not be removed from the list. Consideration shall also be given by the Secretary, where appropriate, to removing site visitation requirements for goods and technology which are removed from the above-mentioned list unless objections described in this subsection are raised.

(p) (1) Notwithstanding any other provision of this Act, no horse may be exported by sea from the United States, its territories and possessions, unless such horse is part of a consignment of horse with respect to which a waiver has been granted under paragraph (2) of this subsection.

(2) The Secretary of Commerce, in consultation with the Secretary of Agriculture, may issue rules and regulations providing for the granting of waivers permitting the export by sea of a specified consignment of horses, if the Secretary of Commerce, in consultation with the Secretary of Agriculture, determines that no horse in that consignment is being exported for purposes of slaughter.

FOREIGN BOYCOTTS

SEC. 5. (a) (1) For the purpose of implementing the policies set forth in section 3(5)(A) and (B), the President shall issue rules and regulations prohibiting any United States person, with respect to his activities in the interstate or foreign commerce of the United States, from taking or knowingly agreeing to take any of the following actions with intent to comply with, further, or support any boycott fostered or imposed by a foreign country against a country which is friendly to the United States and which is not itself the object of any form of boycott pursuant to United States law or regulation:

(A) Refusing, or requiring any other person to refuse, to do business with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, pursuant to an agreement with, a requirement of, or a request from or on behalf of the boycotting country. The mere absence of a business relationship with or in the boycotted country with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with

any other person, does not indicate the existence of the intent required to establish a violation of rules and regulations issued to carry out this subparagraph.

(B) Refusing, or requiring any other person to refuse, to employ or otherwise discriminating against any United States person on the basis of race, religion, sex, or national origin of that person or of any owner, officer, director, or employee of such person.

(C) Furnishing information with respect to the race, religion, sex, or national origin of any United States person or of any owner, officer, director, or employee of such person.

(D) Furnishing information about whether any person has, has had, or proposes to have any business relationship (including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investment, or supply) with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person which is known or believed to be restricted from having any business relationship with or in the boycotting country. Nothing in this paragraph shall prohibit the furnishing of normal business information in a commercial context as defined by the Secretary of Commerce.

(E) Furnishing information about whether any person is a member of, has made contributions to, or is otherwise associated with or involved in the activities of any charitable or fraternal organization which supports the boycotted country.

(F) Paying, honoring, confirming, or otherwise implementing a letter of credit which contains any condition or requirement compliance with which is prohibited by rules and regulations issued pursuant to this paragraph, and no United States person shall, as a result of the application of this paragraph, be obligated to pay or otherwise honor or implement such letter of credit.

(2) Rules and regulations issued pursuant to paragraph (1) shall provide exceptions for—

(A) complying or agreeing to comply with requirements (i) prohibiting the import of goods or services from the boycotted country or goods produced or services provided by any business concern organized under the laws of the boycotted country or by nationals or residents of the boycotted country, or (ii) prohibiting the shipment of goods to the boycotting country on a carrier of the boycotted country, or by a route other than that prescribed by the boycotting country or the recipient of the shipment;

(B) complying or agreeing to comply with import and shipping document requirements with respect to the country of origin, the name of the carrier and route of shipment, the name of the supplier of the shipment or the name of the provider of other services, except that no information knowingly furnished or conveyed in response to such requirements may be stated in negative, blacklisting, or similar exclusionary terms on or after June 22, 1978, other than with respect to carriers or route of shipment as may be permitted by such rules and regulations in order to comply with precautionary requirements protecting against war risks and confiscation;

(C) complying or agreeing to comply in the normal course of business with the unilateral and specific selection by a boycotting country or national or resident thereof, of carriers, insurers, suppliers of services to be performed within the boycotting country or specific goods which, in the normal course of business, are identifiable by source when imported into the boycotting country;

(D) complying or agreeing to comply with

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export requirements of the boycotting country relating to shipments or transshipments of exports to the boycotted country, to any business concern of or organized under the laws of the boycotted country, or to any national or resident of the boycotted country;

(E) compliance by an individual or agreement by an individual to comply with the immigration or passport requirements of any country with respect to such individual or any member of such individual's family or with requests for information regarding requirements of employment of such individual within the boycotting country; and

(F) compliance by a United States person resident in a foreign country or agreement by such person to comply with the laws of that country with respect to his activities exclusively therein, and such rules and regulations may contain exceptions for such resident complying with the laws or regulations of that foreign country governing imports into such country of trademarked, trade named, or similarly specifically identifiable products, or components of products for his own use, including the performance of contractual services within that country, as may be defined by such rules and regulations.

(3) Rules and regulations issued pursuant to paragraphs (2)(C) and (2)(F) shall not provide exceptions from paragraphs (1)(B) and (1)(C).

(4) Nothing in this subsection may be construed to supersede or limit the operation of the antitrust or civil rights laws of the United States.

(5) Rules and regulations pursuant to this subsection shall be issued not later than ninety days after the date of enactment of this section and shall be issued in final form and become effective not later than one hundred and twenty days after they are first issued, except that (A) rules and regulations prohibiting negative certification may take effect not later than one year after the date of enactment of this section, and (B) a grace period shall be provided for the application of the rules and regulations issued pursuant to this subsection to actions taken pursuant to a written contract or other agreement entered into on or before May 16, 1977. Such grace period shall end on December 31, 1978, except that the Secretary of Commerce may extend the grace period for not to exceed one additional year in any case in which the Secretary finds that good faith efforts are being made to renegotiate the contract or agreement in order to eliminate the provisions which are inconsistent with the rules and regulations issued pursuant to paragraph (1).

(6) This Act shall apply to any transaction or activity undertaken, by or through a United States or other person, with intent to evade the provisions of this Act as implemented by the rules and regulations issued pursuant to this subsection, and such rules and regulations shall expressly provide that the exceptions set forth in paragraph (2) shall not permit activities or agreements (expressed or implied by a course of conduct, including a pattern of responses) otherwise prohibited, which are not within the intent of such exceptions.

(b)(1) In addition to the rules and regulations issued pursuant to subsection (a) of this section, rules and regulations issued under section 4(a) of this Act shall implement the policies set forth in section 3(5).

(2) Such rules and regulations shall require that any United States person receiving a request for the furnishing of information, the entering into or implementing of agreements, or the taking of any other action referred to in section 3(5) shall report that fact to the Secretary of Commerce, together with such other information concerning such request as the Secretary may require for such action as he may deem appropriate for carrying out the policies of that section. Such person shall also report to the Secretary of

Commerce whether he intends to comply and whether he has complied with such request. Any report filed pursuant to this paragraph after the date of enactment of this section shall be made available promptly for public inspection and copying, except that information regarding the quantity, description, and value of any goods or technology to which such report relates may be kept confidential if the Secretary determines that disclosure thereof would place the United States person involved at a competitive disadvantage. The Secretary of Commerce shall periodically transmit summaries of the information contained in such reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary of Commerce, may deem appropriate for carrying out the policies set forth in section 3(5) of this Act.

(c) The provisions of this section and the rules and regulations issued pursuant thereto shall preempt any law, rule, or regulation of any of the several States or the District of Columbia, and any of the territories or possessions of the United States, or of any governmental subdivision thereof, which law, rule, or regulation pertains to participation in, compliance with, implementation of, or the furnishing of information regarding restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries.

PROCEDURES FOR HARDSHIP RELIEF FROM EXPORT CONTROLS

Sec. 6 (a) Any person who, in his domestic manufacturing process or other domestic business operation, utilizes a product produced abroad in whole or in part from a commodity historically obtained from the United States but which has been made subject to export controls, or any person who historically has exported such a commodity, may transmit a petition of hardship to the Secretary of Commerce requesting an exemption from such controls in order to alleviate any unique hardship resulting from the imposition of such controls. A petition under this section shall be in such form as the Secretary of Commerce shall prescribe and shall contain information demonstrating the need for the relief requested.

(b) Not later than thirty days after receipt of any petition under subsection (a), the Secretary of Commerce shall transmit a written decision to the petitioner granting or denying the requested relief. Such decision shall contain a statement setting forth the Secretary's basis for the grant or denial. Any exemption granted may be subject to such conditions as the Secretary deems appropriate.

(c) For purposes of this section, the Secretary's decision with respect to the grant or denial of relief from unique hardship resulting directly or indirectly from the imposition of controls shall reflect the Secretary's consideration of such factors as—

(1) whether denial would cause a unique hardship to the petitioner which can be alleviated only by granting an exception to the applicable regulations. In determining whether relief shall be granted, the Secretary will take into account:

(A) ownership of material for which there is no practicable domestic market by virtue of the location or nature of the material;

(B) potential serious financial loss to the applicant if not granted an exception;

(C) inability to obtain, except through import, an item essential for domestic use which is produced abroad from the commodity under control;

(D) the extent to which denial would conflict, to the particular detriment of the applicant, with other national policies including those reflected in any international agreement to which the United States is a party;

(E) possible adverse effects on the econ-

omy (including unemployment) in any locality or region of the United States; and

(F) other relevant factors, including the applicant's lack of an exporting history during any base period that may be established with respect to export quotas for the particular commodity; and

(2) the effect a finding in favor of the applicant would have on attainment of the basic objectives of the short supply control program.

In all cases, the desire to sell at higher prices and thereby obtain greater profits will not be considered as evidence of a unique hardship, nor will circumstances where the hardship is due to imprudent acts or failure to act on the part of the petitioner.

PETITIONS FOR MONITORING OR CONTROLS

Sec. 7. (a)(1) Any entity, including a trade association, firm, or certified or recognized union or group of workers, which is representative of an industry or a substantial segment of an industry which processes any material or commodity may transmit a written petition to the Secretary of Commerce requesting the imposition of export controls, or the monitoring of exports, or both, with respect to such material or commodity.

(2) Each petition shall be in such form as the Secretary of Commerce shall prescribe and shall contain information in support of the action requested.

(b) Within fifteen days of receipt of any petition described in subsection (a), the Secretary of Commerce shall cause to be published a notice in the Federal Register. The notice shall include (1) the name of the material or commodity which is the subject of the petition, (2) the Schedule B number of the material or commodity as set forth in the Statistical Classification of Domestic and Foreign Commodities Exported from the United States, (3) whether the petitioners is requested that control or monitoring, or both, be imposed with respect to the exportation of such material or commodity, and (4) provide that interested persons shall have a period of thirty days commencing with the date of publication of such notice to submit to the Secretary of Commerce written data, views, or arguments, with or without opportunity for oral presentation. At the request of any person, the Secretary shall conduct public hearings with respect to the subject of the petition, in which event the thirty-day period shall be extended to forty-five days.

(c) Within thirty days after the end of the thirty-day or forty-five-day period described in subsection (b), the Secretary of Commerce shall—

(1) determine whether to impose monitoring or controls or both on the exportation of such material or commodity; or

(2) publish in the Federal Register a detailed statement of the reasons for such determination.

(d) Within fifteen days following a decision under subsection (c) to impose monitoring or controls on the exportation of a material or commodity, the Secretary shall publish in the Federal Register proposed regulations with respect to such monitoring or controls. Within thirty days following the publication of such notice, and after considering any public comments, the Secretary shall publish and implement final regulations.

(e) The procedures and time limits set forth in this section shall take precedence over any review undertaken at the initiative of the Secretary.

(f) The Secretary shall have the authority to impose monitoring or controls on a temporary basis during the period following the filing of a petition under subsection (a)(1) and his determination under subsection (c) if he deems such action to be necessary to

effectuate the policy set forth in section 3(2) (C) of this Act.

(g) The authority under this section shall not be construed to affect the authority of the Secretary of Commerce under any other provision of this Act.

CONSULTATION AND STANDARDS

SEC. 8. (a) In determining what shall be controlled or monitored under this Act, and in determining the extent to which exports shall be limited, any department, agency, or official making these determinations shall seek information and advice from the several executive departments and independent agencies concerned with aspects of our domestic and foreign policies and operations having an important bearing on exports. Such departments and agencies shall fully cooperate in rendering such advice and information. Consistent with considerations of national security, the President shall seek information and advice from various segments of private industry in connection with the making of these determinations. In addition, the Secretary of Commerce shall consult with the Secretary of Energy to determine whether, in order to effectuate the policy stated in section 3(2) (C) of this Act, monitoring or controls are necessary with respect to exports of facilities, machinery, or equipment normally and principally used, or intended to be used, in the production, conversion, or transportation of fuels and energy (except nuclear energy), including but not limited to, drilling rigs, platforms, and equipment; petroleum refineries, natural gas processing, liquefaction, and gasification plants; facilities for production of synthetic natural gas or synthetic crude oil; oil and gas pipelines, pumping stations, and associated equipment; and vessels for transporting oil, gas, coal, and other fuels.

(b) (1) In authorizing exports, full utilization of private competitive trade channels shall be encouraged insofar as practicable, giving consideration to the interests of small business, merchant exporters as well as producers, and established and new exporters, and provision shall be made for representative trade consultation to that end. In addition, there may be applied such other standards or criteria as may be deemed necessary by the head of such department, or agency, or official to carry out the policies of this Act.

(2) Upon imposing quantitative restrictions on exports of any goods to carry out the policy stated in section 3(2) (C) of this Act, the Secretary of Commerce shall include in the notice published in the Federal Register an invitation to all interested parties to submit written comments within fifteen days from the date of publication of the impact of such restrictions and the method of licensing used to implement them.

(c) (1) Upon written request by representatives of a substantial segment of any industry which produces goods or technology which are subject to export controls or are being considered for such controls because of their significance to the national security of the United States, or whenever he deems appropriate to further the purposes of this Act, the Secretary of Commerce shall appoint a technical advisory committee for any grouping of such goods or technology which he determines is difficult to evaluate because of questions concerning technical matters, worldwide availability and actual utilization of production and technology, or licensing procedures. Each such committee shall consist of representatives of United States industry and government, including the Departments of Commerce, Defense, and State, and, when appropriate, other Government departments and agencies. No person serving on any such committee who is representative of industry shall serve on such committee for more than four consecutive years.

(2) It shall be the duty and function of

the technical advisory committees established under paragraph (1) to advise and assist the Secretary of Commerce and any other department, agency, or official of the Government of the United States to which the President has delegated power, authority, and discretion under section 4(e) with respect to actions designed to carry out the policy set forth in section 3 of this Act. Such committees, where they have expertise in such matters, shall be consulted with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to any goods or technology, and (D) exports subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. Nothing in this subsection shall prevent the Secretary from consulting, at any time, with any person representing industry or the general public regardless of whether such person is a member of a technical advisory committee. Members of the public shall be given a reasonable opportunity, pursuant to regulations prescribed by the Secretary of Commerce, to present evidence to such committees.

(3) Upon request of any member of any such committee, the Secretary may, if he determines it appropriate, reimburse such member for travel, subsistence, and other necessary expenses incurred by him in connection with his duties as a member.

(4) Each such committee shall elect a chairman, and shall meet at least every three months at the call of the Chairman, unless the Chairman determines, in consultation with the other members of the committee, that such a meeting is not necessary to achieve the purposes of this Act. Each such committee shall be terminated after a period of two years, unless extended by the Secretary for additional periods of two years. The Secretary shall consult each such committee with regard to such termination or extension of that committee.

(5) To facilitate the work of the technical advisory committees, the Secretary of Commerce, in conjunction with other departments and agencies participating in the administration of this Act, shall disclose to each such committee adequate information, consistent with national security and foreign policy, pertaining to the reasons for the export controls which are in effect or contemplated for the grouping of goods or technology with respect to which that committee furnishes advice.

(6) Whenever a technical advisory committee certifies to the Secretary of Commerce that goods or technology are available in fact from sources outside the United States in sufficient quantity and of comparable quality so as to render United States export controls ineffective in achieving the purposes of this Act, and provides adequate documentation for such certification, the Secretary of Commerce shall investigate and report to the technical advisory committee on whether the Secretary concurs with the certification. If the Secretary concurs, the Secretary shall submit a recommendation to the President who shall act in accordance with section 4(a) (2) (E) of this Act.

VIOLATIONS

SEC. 9. (a) Except as provided in subsection (b) of this section, whoever knowingly violates any provision of this Act or any regulation, order, or license issued thereunder shall be fined not more than five times the value of the exports involved or \$50,000, whichever is greater, or imprisoned not more than five years, or both.

(b) Whoever willfully exports anything contrary to any provision of this Act or any regulation, order, or license issued thereunder, with knowledge that such exports will be used for the benefit of any country

to which exports are restricted for national security or foreign policy purposes, shall be fined not more than five times the value of the exports involved or \$100,000, whichever is greater, or imprisoned not more than ten years, or both.

(c) (1) The head of any department or agency exercising any functions under this Act, or any officer or employee of such department or agency specifically designated by the head thereof, may impose a civil penalty not to exceed \$10,000 for each violation of this Act or any regulation, order, or license issued under this Act, either in addition to or in lieu of any other liability or penalty which may be imposed.

(2) (A) The authority under this Act to suspend or revoke the authority of any United States person to export goods or technology may be used with respect to any violation of the rules and regulations issued pursuant to section 5(a) of this Act.

(B) Any administrative sanction (including any civil penalty or any suspension or revocation of authority to export) imposed under this Act for a violation of the rules and regulations issued pursuant to section 5(a) of this Act may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code.

(C) Any charging letter or other document initiating administrative proceedings for the imposition of sanctions for violations of the rules and regulations issued pursuant to section 5(a) of this Act shall be made available for public inspection and copying.

(d) The payment of any penalty imposed pursuant to subsection (c) may be made a condition, for a period not exceeding one year after the imposition of such penalty, to the granting, restoration, or continuing validity of any export license, permission, or privilege granted or to be granted to the person upon whom such penalty is imposed. In addition, the payment of any penalty imposed under subsection (c) may be deferred or suspended in whole or in part for a period of time no longer than any probation period (which may exceed one year) that may be imposed upon such person. Such a deferral or suspension shall not operate as a bar to the collection of the penalty in the event that the conditions of the suspension, deferral, or probation are not fulfilled.

(e) Any amount paid in satisfaction of any penalty imposed pursuant to subsection (c) shall be covered into the Treasury as a miscellaneous receipt. The head of the department or agency concerned may, in his discretion, refund any such penalty, within two years after payment, on the ground of a material error of fact or law in the imposition. Notwithstanding section 1346(a) of title 28, United States Code, no action for the refund of any such penalty may be maintained in any court.

(f) In the event of the failure of any person to pay a penalty imposed pursuant to subsection (c), a civil action for the recovery thereof may, in the discretion of the head of the department or agency concerned, be brought in the name of the United States. In any such action, the court shall determine de novo all issues necessary to the establishment of liability. Except as provided in this subsection and in subsection (d), no such liability shall be asserted, claimed, or recovered upon by the United States in any way unless it has previously been reduced to judgment.

(g) Nothing in subsection (c), (d), or (f) limits—

(1) the availability of other administrative or judicial remedies with respect to violations of this Act, or any regulation, order, or license issued under this Act;

(2) the authority to compromise and settle administrative proceedings brought with re-

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spect to violations of this Act, or any regulation, order, or license issued under this Act; or

(3) the authority to compromise, remit or mitigate seizures and forfeitures pursuant to section 1(b) of title VI of the Act of June 15, 1917 (22 U.S.C. 401(b)).

ENFORCEMENT

Sec. 10. (a) To the extent necessary or appropriate to the enforcement of this Act or to the imposition of any penalty, forfeiture, or liability arising under the Export Control Act of 1949, the head of any department or agency exercising any function thereunder (and officers or employees of such department or agency specifically designated by the head thereof) may make such investigations and obtain such information from, require such reports or the keeping of such records by, make such inspection of the books, records, and other writings, premises, or property of, and take the sworn testimony of, any person. In addition, such officers or employees may administer oaths or affirmations, and may by subpoena require any person to appear and testify or to appear and produce books, records, and other writings, or both, and in the case of contumacy by, or refusal to obey a subpoena issued to, any such person, the district court of the United States for any district in which such person is found or resides or transacts business, upon application, and after notice to any such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce books, records, and other writings, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) No person shall be excused from complying with any requirements under this section because of his privilege against self-incrimination, but the immunity provisions of the Compulsory Testimony Act of February 11, 1893 (27 Stat. 443; 49 U.S.C. 46) shall apply with respect to any individual who specifically claims such privilege.

(c) Except as otherwise provided by the third sentence of section 5(b) (2) and by section 9(c) (2) (C) of this Act, information obtained under this Act, which is deemed confidential or with reference to which a request for confidential treatment is made by the person furnishing such information, shall be exempt from disclosure under section 552(b) (3) (B) of title 5, United States Code, and such information shall not be published or disclosed unless the Secretary of Commerce determines that the withholding thereof is contrary to the national interest. Nothing in this Act shall be construed as authorizing the withholding of information from Congress, and all information obtained at any time under this Act or previous Acts regarding the control of exports, including any report or license application required under section 4(b), shall be made available upon request to any committee or subcommittee of Congress of appropriate jurisdiction. No such committee or subcommittee shall disclose any information obtained under this Act or previous Acts regarding the control of exports which is submitted on a confidential basis unless the full committee determines that the withholding thereof is contrary to the national interest.

(d) In the administration of this Act, reporting requirements shall be so designed as to reduce the cost of reporting, recordkeeping, and export documentation required under this Act to the extent feasible consistent with effective enforcement and compilation of useful trade statistics. Reporting, recordkeeping, and export documentation requirements shall be periodically reviewed and revised in the light of developments in the field of information technology.

EXEMPTION FROM CERTAIN PROVISIONS RELATING TO ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

Sec. 11. (a) Except as provided in section 9(c) (2), the functions exercised under this Act are excluded from the operation of sections 551, 553 through 559, and 701 through 706 of title 5, United States Code.

(b) It is the intent of Congress that, to the extent practicable, all regulations imposing controls on exports under this Act be issued in proposed form with meaningful opportunity for public comment before taking effect. In cases where a regulation imposing controls under this Act is issued with immediate effect, it is the intent of Congress that meaningful opportunity for public comment also be provided and that the regulation be reissued in final form after public comments have been fully considered. The Secretary shall include in the annual report required by this Act a detailed accounting of the issuance of regulations under the authority of this Act, including an explanation of each case in which regulations were not issued in accordance with the first sentence of this subsection.

ANNUAL REPORT

Sec. 12. (a) The Secretary of Commerce shall make an annual report to the President and to the Congress on the implementation of this Act.

(b) Each annual report shall include an accounting of—

(1) actions taken by the President and the Secretary of Commerce to effect the anti-boycott policies set forth in section 3(5) of this Act;

(2) organizational and procedural changes instituted and any reviews undertaken in furtherance of the policies set forth in this Act;

(3) efforts to keep the business sector of the Nation informed about policies and procedures adopted under this Act;

(4) any changes in the exercise of the authorities of section 4(a) of this Act;

(5) the results of review of United States policy toward individual countries called for in section 4(a) (2) (A);

(6) the results, in as much detail as may be included consistent with the national security and the need to maintain the confidentiality of proprietary information, of the actions, including reviews and revisions of export controls maintained for national security purposes, required by section 4(a) (2) (B);

(7) actions taken pursuant to section 4(b) (1), including changes made in control lists and assessments of foreign availability;

(8) evidence demonstrating a need to impose export controls for national security or foreign policy purposes in the face of foreign availability as set forth in section 4(a) (2) (E);

(9) the information contained in the reports required by section 4(e) (2) of this Act, together with an analysis of—

(A) the impact on the economy and world trade of shortages or increased prices for commodities subject to monitoring under this Act or section 812 of the Agricultural Act of 1970;

(B) the worldwide supply of such commodities; and

(C) actions being taken by other nations in response to such shortages or increased prices;

(10) delegations of authority by the President as provided for under section 4(k) of this Act;

(11) the progress of negotiations under section 4(n) of this Act;

(12) the number and disposition of export license applications taking more than 90 days to process pursuant to section 4(d) of this Act;

(13) consultations undertaken with technical advisory committees pursuant to section 8(c) of this Act, the use made of advice given, and the contribution such committees made in carrying out the policies of this Act;

(14) violations of the provisions of this Act and penalties imposed pursuant to this Act; and

(15) any revisions to reporting requirements prescribed in section 10(d).

(c) The heads of other involved departments and agencies shall fully cooperate with the Secretary of Commerce in providing all information required by the Secretary of Commerce to complete the annual reports.

DEFINITIONS

Sec. 13. As used in this Act—

(1) the term "person" includes the singular and the plural and any individual, partnership, corporation, or other form of association, including any government or agency thereof;

(2) the term "United States person" means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern) and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President;

(3) the term "goods" means any article, material, supply or manufactured product, including inspection and test equipment, and excluding technical data; and

(4) the term "technology" means the information and know-how that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data, but not the goods themselves.

EFFECTS ON OTHER ACTS

Sec. 14. (a) The Act of February 15, 1936 (49 Stat. 1140), relating to the licensing of exports of tinplate scrap, is hereby superseded; but nothing contained in this Act shall be construed to modify, repeal, supersede, or otherwise affect the provisions of any other laws authorizing control over exports of any commodity.

(b) The authority granted to the President under this Act shall be exercised in such manner as to achieve effective coordination with the authority exercised under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

(c) On October 1, 1979, the Mutual Defense Assistance Control Act of 1951, as amended (22 U.S.C. 1611-1613d), is superseded.

AUTHORIZATION OF APPROPRIATIONS

Sec. 15. (a) Notwithstanding any other provision of law, no appropriation shall be made under any law to the Department of Commerce for expenses to carry out the purposes of this Act for any fiscal year commencing on or after October 1, 1980, unless previously and specifically authorized by legislation.

(b) There are authorized to be appropriated to the Department of Commerce \$8,000,000 (and such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs) for fiscal year 1980 to carry out the purposes of this Act, of which \$1,250,000 shall be available only for purposes of establishing and maintaining the capability to make foreign availability assessments called for by section 4(b) (1).

EFFECTIVE DATE

Sec. 16. (a) This Act takes effect upon the expiration of the Export Administration Act of 1969.

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(b) All outstanding delegations, rules, regulations, orders, licenses, or other forms of administrative action under the Export Control Act of 1949 or section 6 of the Act of July 2, 1940 (54 Stat. 714), or the Export Administration Act of 1969 shall, until amended or revoked, remain in full force and effect, the same as if promulgated under this Act.

TERMINATION DATE

SEC. 17. The authority granted by this Act terminates on September 30, 1983, or upon any prior date which the President by proclamation may designate.

AGRICULTURE, RURAL DEVELOPMENT AND RELATED AGENCIES APPROPRIATIONS, 1980

The PRESIDING OFFICER. Under the previous order, S. 737 will be set aside, and the Senate will proceed to the consideration of H.R. 4387, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4387) making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1980, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with an amendment in the nature of a substitute.

The PRESIDING OFFICER. Who yields time?

Mr. EAGLETON. Mr. President, I ask unanimous consent that Andrew Jacobs, of the Agriculture Appropriations Subcommittee staff, be granted the privilege of the floor during the consideration of H.R. 4387.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, after I deliver my opening statement, I will yield to the Senator from Oklahoma (Mr. BELLMON). I must then leave the floor temporarily to introduce a witness at a confirmation hearing, and I will be absent during Senator BELLMON's statement.

Mr. President, the 1980 agriculture appropriations bill includes \$16,840,597,000 in budget authority, plus \$1,831,086,000 in section 32 transfers and \$84,726,000 in other transfers, for total obligational authority of \$18,756,409,000.

In gross terms, the bill is \$1,482,937,000 less than the President's request in budget authority, and \$1,278,208,000 less than the total obligational authority requested in the budget, but these figures mask the real totals because of the food stamp authorization ceiling which has resulted in an unrealistically low food stamp figure in the bill. As I explained earlier, this could require some \$2.4 billion more than is included in the bill.

Making adjustments for food stamps, section 32 receipts which were higher than estimated in the President's budget, and the home ownership assistance program, which is unusual in that it is a 33-year housing program, the bill before the Senate, according to the calculations of the committee staff, is actually \$189 million more than the Presi-

dent's budget in new budget authority. This is shown on table I attached.

Mr. President, review of this bill has been a difficult task this year, given the competing pressures of fiscal tightness in overall budget and the many requests from both outside groups and Members of the Congress as well. Outside witnesses appearing before the committee requested total add-ons to the budget of \$2.9 billion in budget authority. Senators appearing before the committee or communicating their views to us, requested add-ons to the budget of about \$700 million. We have tried to fashion a reasonable bill that adds in the items that are of most merit, but keeps these add-ons to a minimum.

The committee report contains a section on pages 7 and 8 that summarizes major changes to the House bill, and I ask unanimous consent that it be printed in the Record at the conclusion of my remarks.

Now, I would like to summarize what is in the bill by title.

Title I, agricultural programs, includes: The sum of \$859,515,000 for the Science and Education Administration, including \$370,679,000 for agricultural research in-house, \$198,484,000 for cooperative research, and \$274,767,000 for extension. The grand total for all SEA programs is \$59.8 million above the budget and \$16.9 million above the House allowance. Included here are many restorations of items cut in the budget, and funding for the competitive grants program as well as formula grant programs.

The sum of \$248,241,000 for the Animal and Plant Health Inspection Service, a figure which is \$27,265,000 above the budget and \$10,658,000 above the House figure. Included here are funds for plant and animal disease and pest control, including a significant increase to fund a 10-year brucellosis eradication program.

The sum of \$278,430,000 for activities of the Food Safety and Quality Service. This principally involves meat, poultry and egg inspection, as well as voluntary grading activities.

The sum of \$334,935,000 including both appropriations and transfers, for salaries and expenses of the Agricultural Stabilization and Conservation Service, principally to run the farm price support programs.

The sum of \$3,056,189,000 for reimbursements for net realized losses of the Commodity Credit Corporation for prior year price support and loan programs.

In title II, rural development programs, the bill provides \$5 billion for loans and programs of the rural housing insurance fund. This includes various low, moderate and above-moderate income programs, as well as the new home ownership assistance program (HOAP).

This title also provides \$2.7 billion for loans and programs of the agricultural credit insurance fund, including \$870 million in authorizations for farm ownership and \$875 million for farm operating loans.

For the rural development insurance fund, the bill includes a total authorization of \$2.1 billion. This fund finances water and sewer facility loans, as well as

business and industrial loans, which are authorized at the \$1.1 billion level.

Grants for various rural development programs are also included in this title, totaling \$377.7 million, and involving \$300 million for water and waste disposal, section 111 rural development planning, business and industrial and other programs.

Salaries and expenses of the Farmers Home Administration total \$228,278,000 in the bill. Also funded in this title are salaries and expenses for the Rural Electrification Administration for \$26,045,000, along with loan authorizations of \$850 million for electric loans and \$250 million for telephone loans.

For the Soil Conservation Service, a total of \$564,134,000 is included. This involves over \$254 million for conservation operations and technical assistance, \$162.5 million for watershed and flood prevention operations under Public Laws 566 and 534, \$32 million to begin a 3-year closeout of the resource conservation and development program, and \$75 million for a new rural clean water program.

The bill also includes \$225 million for conservation programs of the ASCS, including \$190 million for the agricultural conservation program.

For title III, domestic programs, the bill includes \$8,528,987,000, funding all of the child nutrition programs, the special milk program, the special supplemental feeding programs, food stamps, food donations as well as the necessary food program administration of the Food and Nutrition Service.

For title IV, international programs, the bill includes \$56,807,000 for the Foreign Agricultural Service for agricultural attaches and market development activities, plus authority for the various titles of food for peace, Public Law 480. Here, the committee recommends funding the budget request, using available unobligated balances.

Title V of the bill includes \$353,534,000 to finance activities of the Food and Drug Administration and the Commodity Futures Trading Commission. Included in this title is \$27 million to fund an urgently needed new laboratory building for the Food and Drug Administration.

Title VI includes various general provisions, most of which have previously appeared in agriculture appropriations acts. A new provision would mandate that whenever personnel ceilings result in savings of salaries and expense funding, these savings revert to the Treasury without rescission, instead of becoming available for expenditure for nonpersonnel costs.

There is one final matter concerning budgetary scorekeeping. Page 3 of the committee report on the bill includes a budgetary impact table that was prepared by CBO. This table is somewhat misleading, in that all amounts counted against the Agriculture Subcommittee's allocations are not shown thereon. I have included a table at the conclusion of my remarks, showing that the bill as reported is \$1,633,000,000 under the subcommittee allocation for budget authority and \$1,631,000,000 under the subcommittee allocation for outlays. Of course